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19583  
RECORDATION NO. FILED 1425

AUG 31 1995 -9 35 AM

August 31, 1995

INTERSTATE COMMERCE COMMISSION

Honorable Vernon A. Williams  
Secretary  
Interstate Commerce Commission  
Room 2214  
12th & Constitution Avenue, N.W.  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for filing and recordation pursuant to 49 U.S.C. § 11303 are one original and two executed counterparts of the mortgage hereinafter described, a primary document. It relates to railroad equipment identified below.

Mortgage of Locomotives and Security Agreement, dated as of August 30, 1995 between (1) MK Rail Corporation, as mortgagor and (2) BankAmerica Business Credit, Inc., as mortgagee.

The equipment subject to this document consists of the locomotives listed on Schedule 1 thereto. A copy of that schedule is attached as Attachment A hereto.

The names and addresses of the parties to the document are as follows:

Mortgagor: MK Rail Corporation  
200 Reedsdale Street  
Pittsburgh, PA 15233

Mortgagee: BankAmerica Business Credit, Inc.  
55 West Monroe Street  
Suite 3600  
Chicago, Illinois 60603

LICENSING BRANCH

AUG 31 9 35 AM '95

RECEIVED  
OFFICE OF THE  
SECRETARY

*Counters - Tim Walsh*

*also  
Heretofore  
acquired*

Honorable Vernon A. Williams  
August 31, 1995  
Page 2

Please file and record the document with indexing under the foregoing names.

A fee of \$21.00 is enclosed for the recordation. Please return the original and any extra copies not needed by the Commission for recordation to the person presenting this letter.

A short summary of the document to appear in the index follows:

*also  
Hereafter  
as given*

Mortgage of Locomotives and Security Agreement as of August 30, 1995 between (1) MK Rail Corporation, as mortgagor, and (2) BankAmerica Business Credit, Inc., as mortgagee, covering all of the locomotives listed on Schedule 1 thereto.

Very truly yours,

*Timothy M. Walsh*

Timothy M. Walsh  
Attorney for MK Rail  
Corporation

Enclosures

SCHEDULE 1

To Mortgage of Locomotives and Security Agreement  
Dated August 30, 1995

Description of Locomotives Mortgaged:

<u>Model</u>	<u>AAR Designation</u>	<u>Road Number</u>	<u>Serial Number</u>	<u>Identifying Mark*</u>
GP40	D115	MKCX 4301	34852	MKCX
GP40	D115	MKCX 4302	36170	MKCX
GP40	D115	MKCX 4303	37193	MKCX
GP40	D115	MKCX 4304	31797	MKCX
GP40	D115	MKCX 4305	38567	MKCX
F45	D126	MKCX 5525	34036	MKCX
F45	D126	MKCX 5526	34038	MKCX
F45	D126	MKCX 5527	34044	MKCX
F45	D126	MKCX 5529	34054	MKCX
F45	D126	MKCX 5530	34055	MKCX
SD40	D125	MKCX 9402	32097	MKCX
SD40	D125	MKCX 9406	30500	MKCX
SD40	D125	MKCX 9408	32422	MKCX
SD40	D125	MKCX 9409	37651	MKCX
SD40	D125	MKCX 9410	37652	MKCX
SD40M-2	D125	MKCX 9412	33519	MKCX
SD40M	D125	MKCX 9413	31951	MKCX
SD40M	D125	MKCX 9414	37144	MKCX
SD40	D125	MKCX 9416	36810	MKCX
SD40	D125	MKCX 9417	36816	MKCX
SD40	D125	MKCX 9419	34968	MKCX
SD40	D125	MKCX 9420	74601-4	MKCX
SD45	D126	MKCX 9501	36366	MKCX
SD45	D126	MKCX 9502	36379	MKCX
SD45	D126	MKCX 9504	33868	MKCX
SD45	D126	MKCX 9506	33849	MKCX
SD45	D126	MKCX 9507	33786	MKCX
SD45	D126	MKCX 9508	34554	MKCX
SD45	D126	MKCX 9509	34556	MKCX
SDP45	D226	MKCX 9510	36659	MKCX
SDP45	D226	MKCX 9511	36660	MKCX
SDP45-2	D226	MKCX 9512	36661	MKCX
SADP45	D226	MKCX 9513	36664	MKCX

SDP45	D226	MKCX 9514	36665	MKCX
SDP45	D226	MKCX 9515	36882	MKCX
SDP45	D226	MKCX 9516	36885	MKCX
SD45	D126	MKCX 9517	31843	MKCX
SD45	D126	MKCX 9518	34167	MKCX
SD45	D126	MKCX 9519	34174	MKCX
SD45	D126	MKCX 9520	37722	MKCX
SD45	D126	MKCX 9521	37725	MKCX
SD45	D126	MKCX 9522	37726	MKCX
SD45	D126	MKCX 9523	37729	MKCX
SD45	D126	MKCX 9524	37734	MKCX
SD45	D126	MKCX 9525	37735	MKCX
SD45	D126	MKCX 9526	33657	MKCX
SD45	D126	MKCX 9527	38366	MKCX
SD45	D126	MKCX 9528	35478	MKCX
SD45	D126	MKCX 9530	37124	MKCX
SD45	D126	MKCX 9532	35489	MKCX
SD45	D126	MKCX 9534	35525	MKCX
SD45	D126	MKCX 9535	32515	MKCX
SD45	D126	MKCX 9536	32553	MKCX
SD45	D126	MKCX 9538	32085	MKCX
SD45	D126	MKCX 9539	32069	MKCX
SD45	D126	MKCX 9541	32532	MKCX
SD45	D126	ATSF 5348	32543	Santa Fe
SD45	D126	ATSF 5353	32540	Santa Fe
SD45	D126	ATSF 5356	32062	Santa Fe
SD45	D126	ATSF 5357	32536	Santa Fe
SD45	D126	ATSF 5359	32519	Santa Fe
SD45	D126	ATSF 5361	32067	Santa Fe
SD45	D126	ATSF 5365	32512	Santa Fe
SD45	D126	ATSF 5366	32508	Santa Fe
SD45	D126	ATSF 5367	32534	Santa Fe
SD45	D126	ATSF 5369	32083	Santa Fe
SD45	D126	ATSF 5370	32082	Santa Fe
SD45	D126	ATSF 5371	32497	Santa Fe
SD45	D126	ATSF 5372	32495	Santa Fe
SD45	D126	ATSF 5373	36500	Santa Fe
SD45	D126	ATSF 5375	36491	Santa Fe
SD45	D126	ATSF 5376	36493	Santa Fe
SD45B	D126	ATSF 5501	32557	Santa Fe
F45	D126	ATSF 5951	34037	Santa Fe
F45	D126	ATSF 5954	34040	Santa Fe
F45	D126	ATSF 5961	34047	Santa Fe
F45	D126	ATSF 5964	34050	Santa Fe

F45	D126	ATSF 5966	34052	Santa Fe
F45	D126	ATSF 5967	34053	Santa Fe
F45	D126	ATSF 5971	34057	Santa Fe
F45	D126	ATSF 5973	34059	Santa Fe
F45	D126	ATSF 5974	34060	Santa Fe
F45	D126	ATSF 5978	34064	Santa Fe
F45	D126	ATSF 5979	34065	Santa Fe
F45	D126	ATSF 5980	34066	Santa Fe
F45	D126	ATSF 5984	34070	Santa Fe
F45	D126	ATSF 5986	34072	Santa Fe
F45	D126	ATSF 5987	34073	Santa Fe
F45	D126	ATSF 5988	34074	Santa Fe
F45	D126	ATSF 5989	34075	Santa Fe
SD45	D126	ATSF 5349	32562	Santa Fe
SD45	D126	ATSF 5355	32524	Santa Fe
SD45	D126	ATSF 5358	32509	Santa Fe
SD45	D126	ATSF 5364	32535	Santa Fe
SD45	D126	ATSF 5368	32531	Santa Fe
SD45	D126	ATSF 5374	36499	Santa Fe
F45	D126	ATSF 5957	34043	Santa Fe
F45	D126	ATSF 5977	34063	Santa Fe
F45	D126	ATSF 5983	34069	Santa Fe
F45	D126	ATSF 5985	34071	Santa Fe
SD45M	D126	URC 9012	7391-1	MKCX
F45	D126	URC 9013	34046	Utah Rail
SW-1		MKCX 243	1401	MKCX
SD40M-2		MKCX 9022	32411	MKCX
MK5000C		UP9901	0194-01	Union Pacific
MK5000C		UP9902	0194-02	Union Pacific
MK5000C		UP9903	0194-03	Union Pacific

Legend to be placed on each unit in one-inch letters:

Ownership subject to a security agreement filed with the Interstate Commerce Commission.

\* 1. Units currently identified with "Santa Fe" markings are, per AT&SF instructions, to have such markings painted out.

2. Unit MKCX 243 has the words "Mountaintop Locomotive Division" stenciled on its side.

RECORDATION NO. **19583** FILED 1425

**AUG 31 1995 -9 35 AM**

**MORTGAGE OF LOCOMOTIVES  
AND SECURITY AGREEMENT**

INTERSTATE COMMERCE COMMISSION

By and Between

**MK RAIL CORPORATION,**  
a Delaware corporation,  
as Mortgagor

and

**BANKAMERICA BUSINESS CREDIT, INC.,**  
individually and as agent for certain  
financial institutions  
hereinafter described,  
as Mortgagee

Dated as of August 30, 1995

## **MORTGAGE OF LOCOMOTIVES AND SECURITY AGREEMENT**

THIS MORTGAGE OF LOCOMOTIVES AND SECURITY AGREEMENT, together with all amendments, modifications, supplements, renewals or replacements, thereof or thereto, including without limitation any Supplemental Mortgage, as hereinafter defined, is referred to herein as this "Mortgage of Locomotives") dated as of August 30, 1995 is made by and between MK RAIL CORPORATION, a Delaware corporation having an office and place of business at 1200 Reedsdale Street, Pittsburgh, Pennsylvania 15233 (the "Mortgagor,") and BANKAMERICA BUSINESS CREDIT, INC., a Delaware corporation ("BABC"), having an office and place of business at 55 West Monroe Street, Suite 3600, Chicago, Illinois 60603 individually and as agent (in such capacity, the "Agent" or the "Mortgagee") for the Lenders (as defined below), and in consideration of the mutual covenants and agreements contained herein, the Mortgagor and the Agent hereby recite and agree, with the intent to be legally bound, as follows:

### **RECITALS**

A. Ownership of Units. Mortgagor is the owner of 107 locomotives specifically identified in Schedule 1 hereto and incorporated herein by reference (all of which locomotives, together with any locomotives now or hereafter owned by Mortgagor and held for lease or otherwise, including without limitation those locomotives described from time to time hereafter on a schedule to a Supplemental Mortgage, as such term is defined below, and any other railroad rolling stock now or hereafter covered hereby, all whenever now or hereafter acquired, together with all replacements, replacement parts, additions, repairs, repair parts, accessions and accessories incorporated therein and/or affixed thereto, all special tools and devices incorporated there into, and all replacements and substitutions thereof are hereinafter referred to collectively in the plural as the "Units" and in the singular as "Unit").

B. Agreement to Finance. Pursuant to that certain Loan and Security Agreement (the Loan and Security Agreement, and all extensions, renewals, amendments, substitutions or replacements thereto referred to herein as the "Credit Agreement") by and among Mortgagor, Touchstone, Inc., a Tennessee corporation ("TI"), MK Engine Systems Company, Inc., a New York corporation ("MKES"), Motor Coils Manufacturing Co., a Pennsylvania corporation ("MCMC"), Power Parts Company, a Nevada corporation ("PPC"), Power Parts Sign Co., an Illinois corporation ("PPS"), Alert Mfg. & Supply Co., an Illinois corporation ("AMS") and Clark Industries, Inc., an Illinois corporation ("CII"), as the borrowers (Mortgagor, TI, MKES, MCMC, PPC, PPS, AMS and CII, are herein referred to individually as a "Loan Party", and collectively as the "Loan Parties"), and BABC, as the initial lender (BABC in the capacity as a lender under the Credit Agreement, together with each financial institution that joins the Credit Agreement as a lender, herein referred to individually as a "Lender", and collectively as the "Lenders"), and the Agent, as agent for the Lenders, the

Lenders agreed to commit to lend to the Loan Parties on a revolving credit basis, upon the terms and conditions set forth in the Credit Agreement, an amount not to exceed SEVENTY FIVE MILLION DOLLARS (\$75,000,000.00). The indebtedness of the Loan Parties to the Lenders under Credit Agreement shall bear interest at rates provided in the Credit Agreement and to be repaid at the times and places and in the manner set forth in the Credit Agreement, and containing other terms and provisions, all of which are specifically incorporated herein by reference. The Credit Agreement, and all of the terms and provisions thereof, are hereby specifically incorporated herein by reference and all capitalized terms defined in the Credit Agreement shall have the same meanings herein except only as otherwise defined herein.

C. Agreement to Secure Advances. Mortgagor has agreed to grant, and does by this Mortgage of Locomotives hereby grant, to Agent, for the benefit of the Agent and the Lenders, and their respective successor and assigns, a first lien, encumbrance and a security interest in the Units and the other Mortgaged Property (as such term is defined below) to secure the payment and performance of the following (individually a "Secured Obligation, and collectively, the "Secured Obligations"):

(i) the Obligations (as defined in the Credit Agreement) of the Mortgagor and the other Loan Parties including but not limited to the indebtedness, liabilities and obligations of the Loan Parties evidenced by and set forth in:

(a) the Letters of Credit, including, but not limited to, the payment of all accrued and unpaid Letter of Credit Fees payable in connection therewith under the terms of the Credit Agreement, and the reimbursement of any sums advanced by any Lender in connection with any drawing made under the terms of a Letter of Credit;

(b) the Credit Agreement, including, but not limited to, the payment of all accrued and unpaid fees thereunder, and reimbursement of any sums advanced by Agent or a Lender or which may otherwise be payable to, or recoverable by, the Agent or a Lender pursuant to the provisions of the Credit Agreement, the terms and provisions of the Credit Agreement being specifically incorporated herein by reference thereto;

(c) this Mortgage of Locomotives, including, but not limited to, reimbursement of any sums advanced by the Agent or a Lender or which may otherwise become payable to, or recoverable by, the Agent or a Lender pursuant to the provisions of this Mortgage of Locomotives;

(d) the other Loan Documents, including, but not limited to, the payment of all accrued and unpaid fees thereunder, and reimbursement of any sums advanced by the Agent or a Lender or which may otherwise be payable to, or recoverable by, the Agent or a Lender pursuant to the other Loan Documents, as one or more may be amended, modified or supplemented from time to time (the other Loan



Documents, as one or more may be amended, modified or supplemented from time to time are hereinafter referred to as the "Other Credit Documents"), the terms and provisions of the Other Credit Documents being specifically incorporated herein by reference thereto; and

(ii) all other liabilities, obligations, covenants, duties and Debt of the Loan Parties to the Agent and the Lenders of any and every kind and nature, however evidenced, and whether arising under this Mortgage of Locomotives, the Credit Agreement or the Other Credit Documents, whether heretofore, now or hereafter owing, arising, due or payable from the Loan Parties to the Agent or the Lenders.

D. Mortgagor's Obligations. Mortgagor's obligations hereunder shall include the total unpaid amount of the Secured Obligations, and the performance of each and every term set forth herein.

NOW, THEREFORE, in consideration of the recitals (each of which is hereby incorporated by reference), and with the intent of being legally bound hereby, Mortgagor and the Agent hereby agree as follows:

#### AGREEMENTS

1. Mortgage Interest. Mortgagor hereby grants, conveys, hypothecates, pledges and assigns to the Agent, for the benefit of the Agent and the Lenders, and their respective successors and assigns, as collateral security for the payment and performance of any and all of the Secured Obligations, including without limitation the repayment of the Revolving Credit Loans, all of the Mortgagor's right, title and interest in and to all of the following property, whether now owned or hereafter acquired:

- (a) the Units specifically identified in Schedule 1 hereto, and any and all other Units now owned or hereafter acquired by Mortgagor, including without limitation those Units identified from time to time on schedules delivered pursuant to any Supplemental Mortgage (to be further identified, supplemented and added to from time to time);
- (b) all replacements, replacement parts, additions, repairs, repair parts, accessions and accessories incorporated therein and/or affixed thereto; and all special tools and devices incorporated there into or used in connection therewith;
- (c) all rents, revenues, issues, profits and proceeds arising from the sale, lease, license, encumbrance, collection or any other temporary or permanent disposition or encumbrance of the collateral listed in items (a) and (b) above (or any part thereof) or any interest therein;

(d) all products, substitutions, renewals and improvements to, of or for any of the collateral listed in items (a) through (c) above; and

(e) all proceeds (including any claims or insurance payable by reason of loss or damage to the Units) of or for any of the collateral listed in items (a) through (d) above.

All of the Mortgagor's property described in items (a) through (e) above, both inclusive, as well as all products thereof and proceeds derived therefrom, whether now owned or existing or hereafter acquired or arising or created, and all of the Mortgagor's right, title and interest in and to and relating to all such property, or proceeds, wherever located, are hereinafter referred to collectively and individually as the "Mortgaged Property".

2. Representations and Warranties of Mortgagor. Mortgagor does hereby warrants, represents and covenants to the Agent (for the benefit of the Agent and the Lenders) that:

(a) Mortgagor is a corporation duly organized and existing under the laws of the State of Delaware and is qualified to do business in every jurisdiction where the nature of its business requires it to be so qualified and where failure so to qualify might materially affect its business or assets, and has all requisite power and authority, corporate and otherwise, to conduct its business and to own its property.

(b) Neither the execution and delivery by Mortgagor of this Mortgage of Locomotives, nor the performance by Mortgagor of its obligations hereunder or thereunder, (i) conflicts or will conflict with or violate in any respect any currently existing law or governmental rule, regulation, judgment or order or any judicial or administrative order or decree applicable to or binding upon Mortgagor or on any of its properties, (ii) conflicts or will conflict with the articles of incorporation or by-laws of Mortgagor, (iii) conflicts or will conflict with, or contravene, violate or result in a breach of, any indenture, mortgage, loan agreement or any other agreement or instrument to which Mortgagor is a party or by which any of its properties is bound, in any such case which does or will materially adversely affect the financial condition or the business or assets of Mortgagor or its ability to perform its obligations under any indenture, mortgage, loan agreement or instrument to which it is a party or by which any of its properties is bound, (iv) results or will result in the creation or imposition of any Lien (other than a Lien in favor of the Agent, for the benefit of the Lenders and the Agent) upon any Unit or any material properties, real, personal or mixed, tangible or intangible, of Mortgagor, (v) requires or will require, on the part of Mortgagor, the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any federal, state or local governmental or public commission, board, authority or agency or (vi) require or will require the consent or approval of its shareholders or any trustee or holders of any currently existing indebtedness or obligations of Mortgagor.

(c) Except for the filing of this Mortgage of Locomotives with the Interstate Commerce Commission (the "ICC") pursuant to Section 11303 of the Act and the filing of the applicable Uniform Commercial Code financing statements with Secretary of State of the Commonwealth of Pennsylvania and the Office of the Prothonotary of Allegheny County, Pennsylvania, no filing, recording or registration of any financing statement or other document or instrument is or will be necessary or advisable in order to create in favor of the Agent for the benefit of the Lenders and the Agent a valid prior perfected security interest in such Units.

(d) There are no actions, suits or proceedings pending or, to the best knowledge of Mortgagor, threatened before any court or by or before any other federal, state or local governmental or public commission, board, authority or agency, or any arbitrator, domestic or foreign, which if adversely determined could reasonably be expected to have a materially adverse effect on Mortgagor's ability to perform its obligations under this Mortgage of Locomotives, or which call into question the validity of this Mortgage of Locomotives.

(e) All licenses, permits, rights of way and other authorizations, consents and other filings required by law to be obtained or made in order to permit the use and operation of the Units on railways within the United States of America have been obtained or made, where the failure to obtain any such license, permit, authorization or consent or make any such filing might have a material adverse effect on Mortgagor's ability to perform its obligations under this Mortgage of Locomotives.

(f) Mortgagor is the sole, legal and beneficial owner of, and has good and marketable right, title and interest in and to, all of the presently owned or existing Mortgaged Property, and will be the sole, legal and beneficial owner of, and will have good and marketable right, title and interest in and to, all of the Mortgaged Property hereafter acquired or created or arising, free and clear of all Liens except (i) the liens and security interests granted hereby or by the Loan Documents or pursuant hereto or thereto, (ii) the Permitted Liens and (iii) lien filings with the Interstate Commerce Commission referencing locomotives bearing the same serial number(s) as are borne by one or more of the Units, which filings relate to the locomotive cores from which the Units were remanufactured, provided that the underlying obligations to which such filings relate shall have been paid in full. Mortgagor will defend its title thereto against the claims of all Persons whomsoever.

(g) Mortgagor's principal place of business and principal executive office are located at the address set forth in Section 13 hereof. All Units are located within the 48 contiguous states of the U.S., except for fifteen Units used on the Soo line between Deluth, Minnesota and Winnipeg, Manitoba which are located in Winnipeg, Manitoba from time to time for various lengths of time.

(h) Mortgagor has, and has duly exercised, all requisite right, power and authority to enter into this Mortgage of Locomotives, and to assign and pledge, and to grant liens and security interests upon and in, the Mortgaged Property for the purposes set forth in this Mortgage of Locomotives, and to carry out the transactions contemplated by this Mortgage of

Locomotives, and this Mortgage of Locomotives constitutes a legal, valid and binding obligation of Mortgagor enforceable against Mortgagor in accordance with its terms.

(i) Except for Permitted Liens, Mortgagor has not heretofore assigned or pledged, or granted any other Lien upon or in, any of the Mortgaged Property; no Lien, including any Permitted Lien, is senior in priority to the Lien created in the Mortgaged Property by this Mortgage of Locomotives although the records of the Interstate Commerce Commission may reflect Lien filings bearing an earlier date than the filings in favor of the Agent and referencing locomotives bearing the same serial number(s) as are borne by one or more of the Units, which filings relate to the locomotive cores from which the Units were remanufactured, provided that the underlying obligations to which such filings relate shall have been paid in full; at its expense, Mortgagor shall generally warrant title to the Mortgaged Property, and shall defend the Mortgaged Property, and the right, title and interest of the Agent (for the benefit of the Agent and the Lenders) therein and thereto, against all claims and demands of any and all Persons whomsoever; Mortgagor shall not grant, create, incur or permit to exist any Lien on or in any of the Mortgaged Property, other than the liens and security interests granted hereby or pursuant hereto and the Permitted Liens; Mortgagor shall not permit any of the Mortgaged Property to be levied upon under any legal process; Mortgagor shall not assign, transfer or otherwise dispose of any of the Mortgaged Property without the prior written consent of the Agent; and Mortgagor shall not do, or permit to be done, anything that may impair the value of any of the Mortgaged Property or any of the liens and security interests granted hereby or pursuant hereto.

(j) Neither the value of the Mortgaged Property upon disposition thereof, nor the ability to freely transfer the Mortgaged Property, is limited by any licenses, franchises, management agreement, leases, subleases or other general intangible or contract rights, to which Mortgagor is a party or which is otherwise applicable to Mortgagor or the Mortgaged Property, except a Permitted Locomotive Lease Agreement (as hereinafter defined).

**3. Repairs, Alterations, Additions, Improvements and Expenses.** (a) During the effectiveness hereof, Mortgagor will make, or cause to be made, such repairs, alterations, additions and improvements as are or may be required from time to time to insure compliance herewith and with all laws, rules and regulations to which reference is made in Section 4 hereof. Without the prior written consent of Agent, Mortgagor shall not make or cause or permit to be made other alterations, additions or improvements to any Unit, unless such may be made without reduction of the value of that Unit below the amount that it would have been had no alteration, addition or improvement been made, and without impairment to the condition and working order required hereby.

(b) Mortgagor will keep, or cause to be kept, each Unit in a condition appropriate and suitable to the business of Mortgagor or any permitted lessee, as the case may be. Mortgagor will furnish, or cause to be furnished, all parts, mechanisms and devices required to keep each Unit in compliance with the laws to which reference is made in Section 4 hereof. Agent shall have no responsibility for any cause arising under this paragraph or for

any expense arising out of or necessary for the operation and use of the Units, including but not limited to maintenance, repairs and replacement parts, storage, tolls, tariffs, fines, registration and insurance fees for all insurance required hereby.

(c) Mortgagor and Agent acknowledge that Mortgagor is in the business of remanufacturing failed locomotives and that in the ordinary course of Mortgagor's business locomotives subject to this Mortgage may not be in good repair, condition and working order.

(d) Mortgagor will keep or cause to be kept, each Unit within the 48 contiguous states of the United States, except as provided in Section 2(g) hereof.

4. Use and Standards of Use and Repair. Mortgagor (and any permitted lessee) will repair, keep in repair and cause the Units to be used in a careful and proper manner consistent with the design and intended use thereof, subject, however, to the reasonable requirements of Mortgagor's business, and will comply with and conform to and with all current and future federal, state, municipal, police and other laws, ordinances and regulations relating to the possession, use or maintenance of the Units. Mortgagor will comply, and cause any permitted lessee to comply, with all rules, interpretations, codes and orders governing use, hire, condition, repair and all other matters interpreted as being applicable to the Units during the effectiveness hereof by and of the American Association of Railroads ("AAR") and any other organization, association, agency or governmental authority, including the Interstate Commerce Commission and the Department of Transportation, which may during the effectiveness hereof be responsible for or have authority to promulgate such rules, interpretations, codes and orders. Mortgagor agrees to indemnify and hold Agent safe and harmless from and against any and all claims, costs, expenses (including without limitation attorney's fees), damages and liabilities claimed, arising from or pertaining to such laws, ordinances, regulations, rules, interpretations, codes and orders. Mortgagor will not remove or permit the removal of any Unit from the United States of America without the prior written consent of Agent.

5. Supplemental Mortgages and Schedules and Identifications.

(a) Supplemental Mortgages. Mortgagor shall promptly notify Agent when any locomotive, not previously described on a schedule to this Mortgage of Locomotives or any Supplemental Mortgage, is to be held by Mortgagor for lease (each such locomotive, an "Additional Unit"). Upon request of Agent, Mortgagor shall (i) deliver to Agent a copy of the lease agreement relating to such Additional Unit, (ii) forthwith prepare and submit to Agent supplemental schedules describing the Additional Unit(s) in form and substance satisfactory to Agent and (iii) execute and deliver a supplement to this Mortgage of Locomotives, substantially in the form of Exhibit "A" attached hereto and made a part hereof, with appropriate insertions therein (each such supplement, a "Supplemental Mortgage").

(b) Identifications. Mortgagor will affix or cause to be affixed to each Unit and maintain throughout the effectiveness hereof, labels, plates or other markings identifying the Units and stating that the ownership of the Units is subject to a security agreement filed with the

Interstate Commerce Commission, including without limitation the marks and stencils recited in the Schedule. Mortgagor shall make appropriate entries upon its books and records disclosing the Agent's liens and security interests in the Mortgaged Property. Mortgagor shall not remark any Unit with new or different identification numbers or otherwise alter any Unit in a manner such that the description of such Unit contained in Schedule 1 hereto would become inaccurate, except for remarking performed in the ordinary and regular course of Mortgagor's business; provided, that with respect to remarking performed in the ordinary and regular course of Mortgagor's business, Mortgagor shall identify to the Agent those Units which are or have been remarked together with the new identification numbers for such Units on a monthly basis upon Mortgagor obtaining knowledge of the foregoing but in no event later than the date which is substantially contemporaneous with the completion of the remarking of any group of Units, and Mortgagor shall at such times cause Schedule 1 hereto to be amended to reflect such remarking. Mortgagor agrees to join with the Agent in the execution of any documents and to pay all recording costs, fees and taxes associated therewith which the Agent may request to give evidence of the Agent's interest (on behalf of the Agent and the Lenders) in the Units and Mortgagor agrees that, upon the occurrence of an Event of Default, Agent may give notice of such interest to any and all of Mortgagor's creditors.

6. **Insurance.** In addition to the provisions of the Credit Agreement respecting insurance coverage, Mortgagor further warrants and covenants that it will keep and maintain or cause to be kept and maintained, the following insurance on and in respect of the Mortgaged Property:

(a) **Coverage.** Mortgagor (or a permitted lessee) will carry, at its cost and at no cost to Agent, with insurers of recognized responsibility comprehensive public liability and property damage insurance in respect of the operation and use of the Units in such amounts as are required under the terms of the Credit Agreement, provided that the property damage insurance coverage shall in no event be less than the greater of the fair market value or book value of the Units.

(b) **Delivery of Certificates of Insurance.** Mortgagor shall deliver to Agent copies of each certificate of insurance relating to the insurance coverage required in Section 6(a) above upon or prior to the execution hereof. In addition, updated certificates of insurance with respect to the insurance coverage required in Section 6(a) above covering any Additional Units shall be delivered to Agent concurrently with the delivery of any Supplemental Mortgage applicable to such Additional Unit. Each such insurance certificate shall name the Agent (for the benefit of the Agent and the Lenders) as additional insured and lender loss payee/mortgagee, as its interests may appear, and shall provide that the underlying insurance policies may be canceled or materially changed only upon thirty (30) days, prior written notice of such cancellation or material change to the Agent.

(c) **Assignment of Insurance.** Mortgagor hereby assigns and sets over to the Agent (for the benefit of the Agent and the Lenders) all monies which may become payable on account of all insurance covering the Mortgaged Property, including without limitation any

return of unearned premiums which may be due upon cancellation of any such insurance, and Mortgagor shall direct the insurers to pay directly to the Agent (for the benefit of the Agent and the Lenders) any amount so due. The Agent, its officers, employees and agents, are hereby appointed the attorneys-in-fact of Mortgagor to endorse any draft, check, instrument or other item of payment that may be payable to Mortgagor in order to collect the proceeds of such insurance or any return of unearned premiums. Subject to Section 10 hereof, any such proceeds or returns of unearned premiums shall be applied by Agent first to the payment of the accrued and unpaid interest on the Notes, then to the unpaid principal outstanding under the Notes and then, in such order and manner as the Agent shall elect in its sole discretion, to the payment of the other Secured Obligations; any balance of insurance proceeds or unearned premiums remaining in the possession of the Agent after payment in full of the Secured Obligations shall be paid to Mortgagor or its order as Mortgagor shall instruct the Agent in writing.

7. Loss or Damages. If damage occurs to any of the Units which consists of an insurable loss, Mortgagor shall:

- (a) Cause the Unit which has suffered the damage to be placed in the repair, condition and working order required hereby; and
- (b) With the prior consent of (which consent shall not be unreasonably withheld) or on the demand of the Agent declare that the Unit has suffered an Event of Loss (as such term is defined below).

In the event Mortgagor repairs the Unit which suffered the damage the Agent will, upon proof satisfactory to it of the completion of all necessary repair, release to Mortgagor any insurance proceeds received by the Agent as a result of the occurrence of the damage. In the event Mortgagor declares that the Unit has suffered an Event of Loss, the Agent shall apply insurance proceeds related to the Event of Loss to repay Mortgagor's Secured Obligations to be applied as the Agent (on behalf of the Agent and the Lenders) shall select in its sole discretion. If the Secured Obligations have been paid in full, the obligation of the Lenders to extend credit to the Loan Parties has been terminated, at the time it receives the insurance proceeds it shall deliver those proceeds to the Mortgagor.

For the purposes of this Section 7, the term "Event of Loss" shall mean with respect to any Unit, any of the following events with respect to such Unit: (i) such Unit suffers an actual or constructive total loss or shall be or become in the good faith opinion of Mortgagor worn out or shall be destroyed or irreparably damaged, or uneconomical to repair, or rendered unfit for commercial use from any cause whatsoever, (ii) title to such Unit shall be taken by any governmental agency or authority by condemnation or otherwise, (iii) use of such Unit shall be taken or requisitioned by any governmental agency or authority, for a period which shall exceed twelve (12) months, (iv) such Unit shall be or become lost or stolen for a period in excess of one hundred eighty (180) days, or (v) as a result of any rule, regulation, order or other action by any governmental agency or authority, the use of such Unit in a manner consistent with

Mortgagor's (or any lessee of Mortgagor's) actual business activities shall have been prohibited for a period of eighteen (18) consecutive months.

8. **Assignment; Permitted Lease.** (a) Except as provided pursuant to any Permitted Locomotive Lease Agreement (as such term is defined below) Mortgagor will not sell, assign, sublet, pledge, hypothecate or otherwise encumber or suffer a lien upon or against any interest in the Units without the prior written consent of the Agent. The Agent may assign this Mortgage or any right and title it has hereunder upon written notice thereof to Mortgagor and such assignment shall be on terms and conditions not inconsistent herewith.

(b) For the purposes of this Section 8, the term "Permitted Locomotive Lease Agreement" shall mean and refer individually and collectively to any agreement entered into by Mortgagor respecting the lease of one or more locomotives held by Mortgagor to any operating railroad or other person intending to use such locomotive or locomotives in a manner relating to interstate commerce, provided that such agreement shall be assignable to the Agent and shall otherwise contain such terms and provisions as are acceptable to the Agent and such agreement shall be in a form sufficient for recording or filing with the Interstate Commerce Commission.

(c) Mortgagor shall promptly deliver to the Agent a copy of each Permitted Locomotive Lease Agreement, the terms and conditions of which shall not conflict with or otherwise impair Mortgagor's duties hereunder or the Agent's liens, rights or remedies hereunder.

(d) Mortgagor shall not consent to any amendment or modification of the terms of, or waiver of any rights under, any Permitted Locomotive Lease Agreement which would reduce the rents due from the lessee thereunder or would otherwise materially and adversely affect the rights and interests of the Agent and the Lenders hereunder, unless the Agent shall give its prior consent in writing to such amendment, modification or waiver.

(e) Mortgagor, unless the Agent shall direct otherwise in writing, shall exercise each and all of its rights under, and enforce each and all of the terms of each Permitted Locomotive Lease Agreement with reasonable promptness and diligence and in accordance with the terms and provisions thereof. Mortgagor shall promptly forward to the Agent copies of all notices received from a lessee under and with respect to any Permitted Locomotive Lease Agreement, and shall give to the Agent prompt notice upon obtaining actual knowledge of any default or event of default thereunder, or any cure thereof.

9. **Default.** Mortgagor shall be deemed to be in default hereunder in the event that (a) an Event of Default should occur under Section 11.1 of the Credit Agreement; (b) any representation or warranty made by Mortgagor hereunder was not true at the time such representation or warranty was made; (c) a breach of the covenant under Section 8(a) hereof occurs; or (d) a breach of any other covenant or agreement hereunder shall occur and remain uncured after thirty (30) days.



**10. Enforcement of Security and Remedies.** (a) In the event of default hereunder, then, or at any time thereafter (such default not having previously been cured), the Agent may declare all of the Secured Obligations to be immediately due and payable, without notice or demand therefor, and shall then, on behalf of the Agent and the Lenders have all remedies hereunder, under the Credit Agreement and the Other Credit Documents and all the remedies of a secured party under the laws of the Commonwealth of Pennsylvania, or any other applicable laws, including, without limitation, the right to take possession of the Units and for that purpose the Agent (a) may require Mortgagor to make the Units and the records thereof available to the Agent at a place to be designated by the Agent reasonably convenient to both parties and (b) may, so far as Mortgagor can give authority therefor, enter upon any premises on which the Units or any part or records thereof may be situated and remove the same therefrom, and may use and employ in connection with such removal any supplies, services, equipment and any available trackage and other facilities or means of Mortgagor or otherwise. Mortgagor hereby waives and releases the Agent and the Lenders of and from any and all claims in connection with any retaking of any Unit in any manner.

(b) The parties hereto recognize that the units may and probably will be widely scattered geographically, difficult of preservation and disposition, important to the continued operation of shippers and subject to complex maintenance and management requirements. Accordingly, the parties agree that, after default, the Agent is to have the widest possible latitude of action to preserve and protect the Units and its security therein and agree further that, at its option, the Agent shall have the unqualified right to appointment of receivers for the preservation, possession, protection and disposition of all or part of the Units and the collection and protection for the Agent and the Lenders of any proceeds of or use or disposition thereof and/or to do any other thing and exercise any rights or remedies which the Agent may or might, with or without judicial process, do or exercise. Without limiting the generality of the forgoing, in case the Agent shall demand possession of the Units after the occurrence of an Event of Default and shall reasonably designate a point or points upon the premises of Mortgagor or elsewhere for the delivery of the Units to the Agent, Mortgagor shall, at its own expense forthwith and in the usual manner (including, but not by way of limitation, giving prompt notice to the Association of American Railroads and all railroads to which any part of the Units have been interchanged to return the Units so interchanged), cause (i) the Units to be moved to such point or points as shall be designated by the Agent and shall there deliver the Units or cause it to be delivered to the Agent and (ii) the Units to be moved to such interchange point or points as shall be designated by the Agent upon any sale, lease or other disposal of all or any part of the Units by the Agent. At the option of the Agent, the Agent may keep the Units on any of the premises of Mortgagor or elsewhere until the Agent shall have leased, sold or otherwise disposed of the same, and for such purpose Mortgagor agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Agent, at the Mortgagor's risk, to permit inspection of the Units by the Agent, the Agent's representatives and prospective purchasers and users. The provisions of this Section 10(b) are an essential part of the agreement between the parties and, upon application to any court of equity having jurisdiction in the premises, the Agent shall be entitled to a decree against Mortgagor requiring specific performance hereof.

(c) After the Agent, on behalf of the Agent and the Lenders takes or receives possession of the Units following default, the Agent may sell, lease or otherwise dispose of the Units in any manner permitted by law, and if notice is required by law, the Agent will give Mortgagor written notice of the time and place of any public sale of the Units or of the time after which any private sale or other intended disposition thereof is to be made, and at any such public or private sale the Agent, on behalf of the Agent and the Lenders may purchase all or any part of the Units. The parties hereto agree that notice under this paragraph shall not be unreasonable as to time if given in compliance herewith five (5) days prior to sale or other disposition.

(d) To the extent permitted by applicable law, Mortgagor hereby waives any rights now or hereafter conferred by statute or otherwise which may require the Agent to sell, lease or otherwise use any Units in mitigation of the Agent's damages as set forth in this paragraph or which may otherwise limit or modify any of the Agent's rights or remedies under this paragraph.

(e) Mortgagor shall pay to the Agent, on demand and as part of the obligations secured hereunder, all costs and expenses, including court costs, legal expenses and reasonable attorneys' fees, incurred by the Agent in exercising any of its right or remedies hereunder or enforcing any of the terms, conditions or provisions hereof.

(f) After the occurrence of an Event of Default, the Agent shall apply the proceeds of any sale or lease of or other disposition or realization upon the Mortgaged Property as follows:

(i) First, to the payment or reimbursement of all reasonable advances, expenses and disbursements of the Agent (including, without limitation, the reasonable fees and disbursements of its counsel and agents) incurred in connection with the administration and enforcement of, or the preservation of, any of the Agent's or any Lender's rights, powers and remedies under this Mortgage of Locomotives, the Credit Agreement, or any Other Credit Documents or other agreement, document or instrument evidencing or securing the Secured Obligations, including but not limited to the acquisition, completion, protection, removal, storage, sale or delivery of the Mortgaged Property;

(ii) Second, to the repayment of the Secured Obligations whether for principal, interest, fees or expenses, in such order and manner as the Agent, in its sole discretion, shall determine; and

(iii) Third, any balance to be distributed as required by law.

In no event shall the Agent or any Lender be liable to the Mortgagor for interest on any surplus. If the proceeds of any such sale of or other disposition or realization upon the Mortgaged Property are insufficient to pay and perform the Secured Obligations in full, then the Mortgagor shall remain liable for such deficiency.

(g) Mortgagor shall have full responsibility for taking any and all steps to preserve and protect the Mortgaged Property in its possession or subject to its control or in the possession or subject to the control of any permitted lessee. Mortgagor agrees that neither the Agent or the Lenders, nor any of their respective officers, directors, employees or agents will be liable for any acts of commission or omission, or for any error of judgment or mistake of fact or law, with respect to the preservation or protection of any Mortgaged Property in their custody except for acts of commission or omission that constitute recklessness or willful misconduct.

11. **Concurrent Remedies; Other Security.** (a) No right or remedy of the Agent, for and on behalf of the Lenders, hereunder shall be exclusive of any other remedy herein or by law provided; each right or remedy shall be cumulative and in addition to every other right or remedy and, in addition, the exercise of any remedy by the Agent hereunder shall not of itself constitute a recognition of a default of all provisions hereof or of an intent by the Agent to terminate all the provisions hereof. Moreover, a failure of the Agent to insist upon strict compliance with the terms hereof or to assert any right or remedy hereunder shall not be a waiver of any default and shall not be determined to constitute a modification of the agreements of the parties hereto or the terms hereof or to establish any claim or defense.

(b) The Agent or any Lender may have or in the future may hold other security and/or guaranties to secure all or any part of the Secured Obligations, but it is specifically understood and agreed that neither the execution and delivery of this Mortgage of Locomotives nor the holding of any other security and/or guaranty shall at any time or in any wise operate to prevent or hinder the Agent or any Lender from resorting first to such other security and/or guaranty or first to the Mortgaged Property, or first from time to time to both; and the Agent (on behalf of the Agent and the Lenders) may from time to time as the Agent sees fit, in the Agent's sole and uncontrolled discretion, resort to all or any part of the Mortgaged Property without resorting to all or any other security and/or guaranty securing such Secured Obligations, or to all or any part of any other security and/or guaranty securing the Secured Obligations without resorting to all or any part of the Mortgaged Property, and such action on the Agent's part shall not in any wise be considered as a waiver of any of the benefits or rights of the Agent relating to the Mortgaged Property or such other security and/or guaranties.

12. **Mortgagee's Payment.** In the event that Mortgagor should fail duly and promptly to perform any of the matters required to be performed hereunder, the Agent may, at its option, immediately or at any time thereafter, perform the same for the account of Mortgagor without thereby waiving any default, and any amount paid or expenses or liability incurred by the Agent in such performance, together with interest thereon at the Default Rate as that rate may change from time to time until paid shall be payable to the Agent by Mortgagor on demand and shall be and become part of the Secured Obligations secured hereunder.

13. **Notice.** Except as otherwise specifically provided herein, notice shall be deemed to have been properly given to Mortgagor when deposited in the United States mail, first class postage prepaid and addressed to Mortgagor at 1200 Reedsdale Street, Pittsburgh, Pennsylvania 15233. Any communication to the Agent shall be deemed properly given if

similarly mailed to BankAmerica Business Credit, Inc., 55 West Monroe Street, Suite 3600, Chicago, Illinois 60603, Attention: Portfolio Administration with a copy to Bank of America NT&SA, 10124 Old Grove Road, San Diego, California 92131, Attention: Legal Department. Either party hereto may at any time change its address for notification purposes by mailing, as aforesaid, a notice stating the change and setting forth the new address.

14. Miscellaneous. (a) All in this Mortgage contained by or on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto whether so expressed or not, except that Mortgagor shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of Agent.

(b) Upon the full discharge and satisfaction of the Secured Obligations and the termination of the Commitment, (a) all right, title and interest herein assigned to the Agent or the Lenders, shall terminate, and all right, title and interest of the Agent or the Lenders in and to each and every one of the items of Mortgaged Property shall revert to Mortgagor and (b) the Agent shall, at the expense of Mortgagor, file all requisite release or termination statements and do all such other acts as are reasonably required of it to evidence the termination of the liens and security interests granted hereby or pursuant hereto.

(c) Mortgagor, at its own expense, shall cause this Mortgage of Locomotives and each Supplemental Mortgage relating to the Units to be filed with the Interstate Commerce Commission pursuant to Section 11303 of the Interstate Commerce Act, as amended (49 U.S.C. §10101, et seq.) promptly after execution and delivery thereof by all parties thereto. Mortgagor, at its own expense, shall further cause this Mortgage of Locomotives, each Supplemental Mortgage and/or appropriate financing statements or continuation statements to be filed and recorded in accordance with the applicable provisions of the Uniform Commercial Code as in effect in the Commonwealth of Pennsylvania (and, if Mortgagor changes its chief executive office to any other state, in such state) and in any other state where filing is necessary to the reasonable satisfaction of counsel to the Agent and shall do such other things to preserve and maintain the perfection and priority of the lien granted herein and in the Supplemental Mortgages (if any) to the Agent (on behalf of the Agent and the Lenders) as such counsel may reasonably request.

(d) Mortgagor, in addition to the requirements set forth above, will from time to time do and perform in a timely manner any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, rerecord or redeposit whenever required) any and all further instruments required by law (including without limitation continuation statements) or reasonably requested by the Agent for the purpose of proper protection, to its sole satisfaction, of its interest (on behalf of the Agent and the Lenders) in the Units and the other Mortgaged Property, or for the purpose of carrying out the intention of this Mortgage of Locomotives. Should Mortgagor fail to do so, the Agent is authorized to sign any such documents as Mortgagor's agent.

(e) The titles to the various paragraphs of this Mortgage are solely for convenience and are not a part of the Mortgage for purposes of interpreting the provisions hereof.

(f) DEMAND, PRESENTMENT, PROTEST AND NOTICE OF DEMAND, PRESENTMENT, PROTEST AND NONPAYMENT ARE HEREBY WAIVED BY MORTGAGOR. MORTGAGOR ALSO WAIVES THE BENEFIT OF ALL VALUATION, APPRAISAL AND EXEMPTION LAWS.

(g) IN THE EVENT OF THE OCCURRENCE OF AN EVENT OF A DEFAULT, MORTGAGOR HEREBY WAIVES ALL RIGHTS TO NOTICE AND HEARING OF ANY KIND PRIOR TO THE EXERCISE BY THE AGENT OF ITS RIGHTS TO REPOSSESS THE MORTGAGED PROPERTY WITHOUT JUDICIAL PROCESS OR TO REPLEVY, ATTACH OR LEVY UPON THE MORTGAGED PROPERTY WITHOUT PRIOR NOTICE OR HEARING. MORTGAGOR ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY COUNSEL OF ITS CHOICE WITH RESPECT TO THIS TRANSACTION AND THIS AGREEMENT.

(h) THIS MORTGAGE OF LOCOMOTIVES SHALL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE INTERNAL LAWS (AS OPPOSED TO THE CONFLICT OR LAWS PROVISIONS, PROVIDED THAT PERFECTION ISSUES WITH RESPECT TO ARTICLE 9 OF THE UCC MAY GIVE EFFECT TO APPLICABLE CHOICE OR CONFLICT OF LAW RULES SET FORTH IN ARTICLE 9 OF THE UCC) OF THE STATE OF ILLINOIS; PROVIDED THAT THE AGENT SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(i) The illegality or unenforceability of any provision of this Mortgage of Locomotives or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Mortgage of Locomotives or any instrument or agreement required hereunder.

(j) This Mortgage of Locomotives may be executed in any number of counterparts, and by the Agent and Mortgagor in separate counterparts, each of which shall be an original, but all of which shall together constitute one and the same agreement.


(k) This Mortgage of Locomotives and the other Loan Documents are intended by the Agent and Mortgagor to be the final, complete, and exclusive expression of the agreement between them. This Mortgage of Locomotives supersedes any and all prior oral or written agreements relating to the subject matter hereof. No modification, rescission, waiver, release, or amendment of any provisions of this Mortgage of Locomotives shall be made, except by a written agreement signed by a duly authorized officer of each party hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Mortgage of Locomotives and Security Agreement to be duly executed by their respective duly authorized officers as of the date first above written.

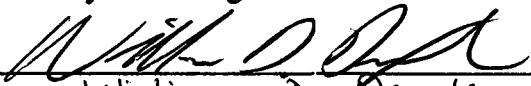
**MORTGAGOR**

**MK RAIL CORPORATION, a Delaware corporation**

By:   
Name: James F. Cleary, Jr.  
Title: Ex. V.P.

**MORTGAGEE**

**BANKAMERICA BUSINESS CREDIT, INC.,  
individually and as Agent for the Lenders**

By:   
Name: William D. Draxler  
Title: SR. V.P.

# SCHEDULE 1

## To Mortgage of Locomotives and Security Agreement Dated August 30, 1995

### Description of Locomotives Mortgaged:

<u>Model</u>	<u>AAR Designation</u>	<u>Road Number</u>	<u>Serial Number</u>	<u>Identifying Mark*</u>
GP40	D115	MKCX 4301	34852	MKCX
GP40	D115	MKCX 4302	36170	MKCX
GP40	D115	MKCX 4303	37193	MKCX
GP40	D115	MKCX 4304	31797	MKCX
GP40	D115	MKCX 4305	38567	MKCX
F45	D126	MKCX 5525	34036	MKCX
F45	D126	MKCX 5526	34038	MKCX
F45	D126	MKCX 5527	34044	MKCX
F45	D126	MKCX 5529	34054	MKCX
F45	D126	MKCX 5530	34055	MKCX
SD40	D125	MKCX 9402	32097	MKCX
SD40	D125	MKCX 9406	30500	MKCX
SD40	D125	MKCX 9408	32422	MKCX
SD40	D125	MKCX 9409	37651	MKCX
SD40	D125	MKCX 9410	37652	MKCX
SD40M-2	D125	MKCX 9412	33519	MKCX
SD40M	D125	MKCX 9413	31951	MKCX
SD40M	D125	MKCX 9414	37144	MKCX
SD40	D125	MKCX 9416	36810	MKCX
SD40	D125	MKCX 9417	36816	MKCX
SD40	D125	MKCX 9419	34968	MKCX
SD40	D125	MKCX 9420	74601-4	MKCX
SD45	D126	MKCX 9501	36366	MKCX
SD45	D126	MKCX 9502	36379	MKCX
SD45	D126	MKCX 9504	33868	MKCX
SD45	D126	MKCX 9506	33849	MKCX
SD45	D126	MKCX 9507	33786	MKCX
SD45	D126	MKCX 9508	34554	MKCX
SD45	D126	MKCX 9509	34556	MKCX
SDP45	D226	MKCX 9510	36659	MKCX
SDP45	D226	MKCX 9511	36660	MKCX
SDP45-2	D226	MKCX 9512	36661	MKCX
SADP45	D226	MKCX 9513	36664	MKCX

SDP45	D226	MKCX 9514	36665	MKCX
SDP45	D226	MKCX 9515	36882	MKCX
SDP45	D226	MKCX 9516	36885	MKCX
SD45	D126	MKCX 9517	31843	MKCX
SD45	D126	MKCX 9518	34167	MKCX
SD45	D126	MKCX 9519	34174	MKCX
SD45	D126	MKCX 9520	37722	MKCX
SD45	D126	MKCX 9521	37725	MKCX
SD45	D126	MKCX 9522	37726	MKCX
SD45	D126	MKCX 9523	37729	MKCX
SD45	D126	MKCX 9524	37734	MKCX
SD45	D126	MKCX 9525	37735	MKCX
SD45	D126	MKCX 9526	33657	MKCX
SD45	D126	MKCX 9527	38366	MKCX
SD45	D126	MKCX 9528	35478	MKCX
SD45	D126	MKCX 9530	37124	MKCX
SD45	D126	MKCX 9532	35489	MKCX
SD45	D126	MKCX 9534	35525	MKCX
SD45	D126	MKCX 9535	32515	MKCX
SD45	D126	MKCX 9536	32553	MKCX
SD45	D126	MKCX 9538	32085	MKCX
SD45	D126	MKCX 9539	32069	MKCX
SD45	D126	MKCX 9541	32532	MKCX
SD45	D126	ATSF 5348	32543	Santa Fe
SD45	D126	ATSF 5353	32540	Santa Fe
SD45	D126	ATSF 5356	32062	Santa Fe
SD45	D126	ATSF 5357	32536	Santa Fe
SD45	D126	ATSF 5359	32519	Santa Fe
SD45	D126	ATSF 5361	32067	Santa Fe
SD45	D126	ATSF 5365	32512	Santa Fe
SD45	D126	ATSF 5366	32508	Santa Fe
SD45	D126	ATSF 5367	32534	Santa Fe
SD45	D126	ATSF 5369	32083	Santa Fe
SD45	D126	ATSF 5370	32082	Santa Fe
SD45	D126	ATSF 5371	32497	Santa Fe
SD45	D126	ATSF 5372	32495	Santa Fe
SD45	D126	ATSF 5373	36500	Santa Fe
SD45	D126	ATSF 5375	36491	Santa Fe
SD45	D126	ATSF 5376	36493	Santa Fe
SD45B	D126	ATSF 5501	32557	Santa Fe
F45	D126	ATSF 5951	34037	Santa Fe
F45	D126	ATSF 5954	34040	Santa Fe
F45	D126	ATSF 5961	34047	Santa Fe
F45	D126	ATSF 5964	34050	Santa Fe



F45	D126	ATSF 5966	34052	Santa Fe
F45	D126	ATSF 5967	34053	Santa Fe
F45	D126	ATSF 5971	34057	Santa Fe
F45	D126	ATSF 5973	34059	Santa Fe
F45	D126	ATSF 5974	34060	Santa Fe
F45	D126	ATSF 5978	34064	Santa Fe
F45	D126	ATSF 5979	34065	Santa Fe
F45	D126	ATSF 5980	34066	Santa Fe
F45	D126	ATSF 5984	34070	Santa Fe
F45	D126	ATSF 5986	34072	Santa Fe
F45	D126	ATSF 5987	34073	Santa Fe
F45	D126	ATSF 5988	34074	Santa Fe
F45	D126	ATSF 5989	34075	Santa Fe
SD45	D126	ATSF 5349	32562	Santa Fe
SD45	D126	ATSF 5355	32524	Santa Fe
SD45	D126	ATSF 5358	32509	Santa Fe
SD45	D126	ATSF 5364	32535	Santa Fe
SD45	D126	ATSF 5368	32531	Santa Fe
SD45	D126	ATSF 5374	36499	Santa Fe
F45	D126	ATSF 5957	34043	Santa Fe
F45	D126	ATSF 5977	34063	Santa Fe
F45	D126	ATSF 5983	34069	Santa Fe
F45	D126	ATSF 5985	34071	Santa Fe
SD45M	D126	URC 9012	7391-1	MKCX
F45	D126	URC 9013	34046	Utah Rail
SW-1		MKCX 243	1401	MKCX
SD40M-2		MKCX 9022	32411	MKCX
MK5000C		UP9901	0194-01	Union Pacific
MK5000C		UP9902	0194-02	Union Pacific
MK5000C		UP9903	0194-03	Union Pacific

Legend to be placed on each unit in one-inch letters:

Ownership subject to a security agreement filed with the Interstate Commerce Commission.

- \* 1. Units currently identified with "Santa Fe" markings are, per AT&SF instructions, to have such markings painted out.
- 2. Unit MKCX 243 has the words "Mountaintop Locomotive Division" stenciled on its side.

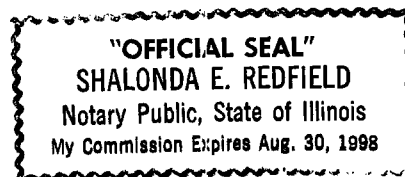
CERTIFICATE OF ACKNOWLEDGMENTS

STATE OF ILLINOIS     )  
                                      ) SS:  
COUNTY OF COOK        )

On this 30th day of August, 1995, before me, a Notary Public, the undersigned officer, personally appeared James F. Cleary, Jr., who acknowledged himself/herself to be the Ex. V.P. of MK RAIL CORPORATION, a Delaware corporation, and that he/she as such Ex. V.P., being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by himself/herself as Ex. V.P..

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Shalonda E. Redfield  
Notary Public

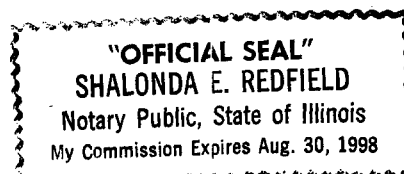


STATE OF ILLINOIS     )  
                                      ) SS:  
COUNTY OF COOK        )

On this 30th day of August, 1995 before me, a Notary Public, the undersigned officer, personally appeared William D. Draxler who acknowledged himself/herself to be the SR. V.P. of BANKAMERICA BUSINESS CREDIT, INC., a Delaware corporation, and that he/she as such SR. V.P., being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation, as agent as above described, by himself/herself as SR. V.P..

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Shalonda E. Redfield  
Notary Public



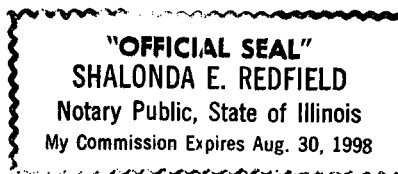
STATE OF ILLINOIS     )  
                                      ) SS:  
COUNTY OF COOK     )

On this 30th day of August, 1995, before me personally appeared James F. Cleary, JR. to me personally known, who being by me duly sworn, say that he/she is Ex. V.P. of MK Rail Corporation, that said instrument was signed on behalf of said corporation on such day by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Shalonda E. Redfield  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_



**EXHIBIT "A" TO MORTGAGE OF LOCOMOTIVES  
AND SECURITY AGREEMENT**

**SUPPLEMENT NO.    TO MORTGAGE OF LOCOMOTIVES  
AND SECURITY AGREEMENT**

SUPPLEMENT NO. \_\_\_\_ TO MORTGAGE OF LOCOMOTIVES AND SECURITY AGREEMENT dated as of \_\_\_\_\_, 199\_\_ (this "Supplemental Mortgage") to the Mortgage of Locomotives and Security Agreement dated as of August 30, 1995 (as amended, supplemented or otherwise modified from time to time prior to the date hereof, the "Initial Mortgage of Locomotives"), between MK RAIL CORPORATION, a Delaware corporation (the "Mortgagor"), and BANKAMERICA BUSINESS CREDIT, INC., a Delaware corporation, individually and as agent (in such capacity, the "Agent") for the Lenders (as such term is defined in the Initial Mortgage of Locomotives).

**R E C I T A L S:**

WHEREAS, all undefined terms used herein shall have the respective meanings set forth therefor in the Initial Mortgage of Locomotives; and

WHEREAS, subject to the terms and provisions of the Initial Mortgage of Locomotives, the Mortgagor agreed to execute and deliver from time to time Supplemental Mortgages substantially in the form hereof with respect to locomotives held by Mortgagor for lease to third parties and not previously described on a schedule to the Initial Mortgage of Locomotives; and

WHEREAS, Mortgagor is the owner of \_\_\_\_ locomotives which Mortgagor has leased, or intends to lease, pursuant to a Permitted Locomotive Lease Agreement (such locomotives as described in more detail on Supplemental Schedule 1 attached hereto and made a part hereof, are herein referred to as the "Additional Units"); and

WHEREAS, Mortgagor desires to execute and deliver this Supplemental Mortgage for the purpose of describing and subjecting the Additional Units to the lien of the Initial Mortgage of Locomotives in favor of the Agent (on behalf of the Agent and the Lenders).

NOW THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1.     Schedule 1 to the Initial Mortgage of Locomotives is hereby supplemented by adding thereto as of \_\_\_\_\_, 199\_\_ the Additional Units described on Supplemental

Schedule 1 hereto. Schedule 1 to the Initial Mortgage of Locomotives is hereby further supplemented to include the identification information set forth on Supplemental Schedule 1 hereto.

2. Effective on the date hereof, the Mortgagor's right, title and interest in and to (i) the Additional Units described on Supplemental Schedule 1 attached hereto, (ii) all replacements, replacement parts, additions, repairs, repair parts, accessions and accessories incorporated therein and/or affixed thereto, and all special tools and devices incorporated thereunto or used in connection therewith, (iii) all rents, revenues, issues, profits and proceeds arising from the sale, lease, license, encumbrance, collection or any other temporary or permanent disposition or encumbrance of the collateral listed in items (i) and (ii) of this Section 2 (or any part thereof) or any interest therein, (iv) all products, substitutions, renewals and improvements to, of or for any of the collateral listed in items (i) through (iii) of this Section 2, and (v) all proceeds (including any claims or insurance payable by reason of loss or damage to the Units) of or for any of the collateral listed in items (i) through (iv) of this Section 2 are deemed included in the Mortgaged Property and are subjected to the lien, encumbrance and mortgage created by the Mortgage of Locomotives.

3. This Supplemental Mortgage shall be construed in connection with and as part of the Initial Mortgage of Locomotives; and the Initial Mortgage of Locomotives is hereby modified to include this Supplemental Mortgage, and all terms, conditions, representations, warranties, covenants and agreements set forth therein, except as herein modified, are hereby confirmed and ratified (including without limitations the representations and warranties of Mortgagor set forth in Section 2 of the Initial Mortgage of Locomotives) and shall remain in full force and effect, except that such terms, conditions, representations, warranties, covenants and agreements shall be deemed to extend to and include this Supplemental Mortgage. From this date any references to the "Mortgage of Locomotives", "Unit(s)" and "Mortgaged Property" shall be deemed to be references to such terms as amended or supplemented in connection with this Supplemental Mortgage.

**4. THIS SUPPLEMENTAL MORTGAGE SHALL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE INTERNAL LAWS (AS OPPOSED TO THE CONFLICT OF LAWS PROVISIONS, PROVIDED THAT PERFECTION ISSUES WITH RESPECT TO ARTICLE 9 OF THE UCC MAY GIVE EFFECT TO APPLICABLE CHOICE OR CONFLICT OF LAW RULES SET FORTH IN ARTICLE 9 OF THE UCC) OF THE STATE OF ILLINOIS; PROVIDED THAT THE AGENT SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.**

5. This Supplemental Mortgage may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same Supplemental Mortgage.

IN WITNESS WHEREOF, each of the parties hereto has caused this Supplement No. \_\_ to Mortgage of Locomotives and Security Agreement to be duly executed and delivered as of the date and year first above written.

**MORTGAGOR:**

**MK RAIL CORPORATION, a  
Delaware corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Agreed and Accepted this \_\_\_\_ day  
of \_\_\_\_\_, 199\_\_:

**MORTGAGEE:**

**BANKAMERICA BUSINESS CREDIT, INC.,  
a Delaware corporation, individually and as  
Agent for the Lenders**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Supplemental Schedule 1 to Supplement No. \_\_\_\_\_  
To Mortgage of Locomotives and Security Agreement

ADDITIONAL UNITS

Description of Locomotives (Units):

<u>Model</u>	<u>AAR Designation</u>	<u>Road Number</u>	<u>Serial Number</u>	<u>Identifying Mark</u>
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Legend to be placed on each unit in one-inch letters:

Ownership subject to a security agreement filed with the Interstate Commerce Commission.

COMMONWEALTH OF PENNSYLVANIA )

COUNTY OF ALLEGHENY

**SS:**

On this \_\_\_\_ day of \_\_\_\_\_, 199\_\_, before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_ of MK RAIL CORPORATION, a Delaware corporation, and that he/she as such \_\_\_\_\_, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by himself/herself as

**IN WITNESS WHEREOF, I hereunto set my hand and official seal.**

**Notary Public**

STATE OF ILLINOIS )

COUNTY OF COOK

**SS:**

On this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_ before me, a Notary Public, the undersigned officer, personally appeared \_\_\_\_\_ who acknowledged himself/herself to be the \_\_\_\_\_ of BANKAMERICA BUSINESS CREDIT, INC., a Delaware corporation, and that he/she as such \_\_\_\_\_, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation, as agent as above described, by himself/herself as

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

**Notary Public**